

AN ORDINANCE 2010-02-04-0097

**AMENDING CHAPTER 19 OF THE CITY CODE OF THE
CITY OF SAN ANTONIO, TEXAS RELATING TO MOTOR
VEHICLES AND TRAFFIC, TO PROVIDE FOR SAFE
PASSAGE OF VULNERABLE ROAD USERS, PROVIDING
FOR A PENALTY, PUBLICATION AND AN EFFECTIVE
DATE.**

WHEREAS, bicyclists and pedestrians are allowed to use the roadway by law in Texas, but these users do not have the same physical protection as motorists and are at greater risk of injury or death; and

WHEREAS, approximately 50 cyclists and 400 pedestrians are killed every year in Texas; and

WHEREAS, a Safe Passing ordinance provides the foundation for an education campaign of tolerance and acceptance for "active" forms of alternative transportation, which furthers the City's goals of promoting San Antonio as a Bicycle Friendly Community, as well as for the enhancement of walkable streets and neighborhoods; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. Article I of Chapter 19, Motor Vehicles and Traffic, of the City Code of the City of San Antonio, Texas is hereby amended by adding the language, as underlined, as a new Section 19-9 to read as follows:

Section 19-9. VULNERABLE ROAD USERS.

(a) In this section, a Vulnerable Road User means:

- (1) a pedestrian, including a runner, physically disabled person, child, skater, highway construction and maintenance worker, tow truck operator, utility worker, other worker with legitimate business in or near the road or right-of-way, or stranded motorist or passenger;
- (2) a person on horseback;
- (3) a person operating equipment other than a motor vehicle, including, but not limited to, a bicycle, handcycle, horse-driven conveyance, or unprotected farm equipment; or
- (4) a person operating a motorcycle, moped, motor-driven cycle, or motor-assisted scooter.

- (b) An operator of a motor vehicle passing a vulnerable road user operating on a highway or street shall:
 - (1) vacate the lane in which the vulnerable road user is located if the highway has two or more marked lanes running in the same direction; or
 - (2) pass the vulnerable road user at a safe distance.
- (c) For the purpose of Subsection (b)(2), when road conditions allow, safe distance is at least:
 - (1) three feet if the operator's vehicle is a passenger car or light truck; or
 - (2) six feet if the operator's vehicle is a truck, other than a light truck, or a commercial motor vehicle as defined by Texas Transportation Code Section 522.003.
- (d) An operator of a motor vehicle that is making a left turn at an intersection, including an intersection with an alley or private road or driveway, shall yield the right-of-way to a vulnerable road user who is approaching from the opposite direction and is in the intersection, or is in such proximity to the intersection as to be an immediate hazard.
- (e) An operator of a motor vehicle may not overtake a vulnerable road user traveling in the same direction and subsequently make a right-hand turn in front of the vulnerable road user unless the operator is safely clear of the vulnerable road user, taking into account the speed at which the vulnerable road user is traveling and the braking requirements of the motor vehicle making the right-hand turn.
- (f) An operator of a motor vehicle may not maneuver the vehicle in a manner that:
 - (1) is intended to cause intimidation or harassment to a vulnerable road user; or
 - (2) threatens a vulnerable road user.
- (g) An operator of a motor vehicle shall exercise due care to avoid colliding with any vulnerable road user on a roadway or in an intersection of roadways.
- (h) It is an affirmative defense to prosecution under this section that at the time of the offense the vulnerable road user was acting in violation of the law.

SECTION 2. Any person who engages in any activity specified in Section 1 above may be subject to prosecution for a Class C misdemeanor and a fine not to exceed \$200.00.

SECTION 3. All other provisions of Chapter 19 of the City Code of San Antonio, Texas shall remain in full force and effect.

SECTION 4. Should any Article, Section, Part, Paragraph, Sentence, Phrase, Clause, or Word of this Ordinance, for any reason be held illegal, inoperative, or invalid, or if any exception to or limitation upon any general provision herein contained be held to be unconstitutional or invalid or ineffective, the remainder shall, nevertheless, stand effective and valid as if it had been enacted and ordained without the portion held to be unconstitutional or invalid or ineffective.

SECTION 5. The City Clerk is directed to publish notice of this Ordinance in accordance with Section 17 of the Charter of the City of San Antonio. The penalty, fine or forfeiture provisions in this Ordinance shall apply five days after publication.


SECTION 6. The publishers of the City Code of San Antonio, Texas are authorized to amend said Code to reflect the changes adopted herein and to correct typographical errors and to format and number paragraphs to conform to the existing code.

SECTION 7. Funds generated by this ordinance will be deposited into Fund 11001000, Internal Order 203000000026, General Ledger 4601100.

SECTION 8. The financial allocations in this Ordinance are subject to approval by the Chief Financial Officer (CFO), City of San Antonio. The CFO may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific Cost Centers, WBS Elements, Internal Orders, General Ledger Accounts, and Fund Numbers as necessary to carry out the purpose of this Ordinance.

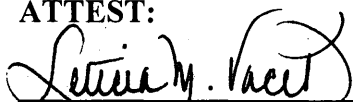
SECTION 9. This ordinance shall be effective immediately upon passage by eight or more affirmative votes; otherwise, it shall be effective on the tenth day after passage.

PASSED and APPROVED this 4th day of February, 2010.



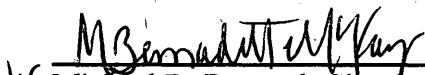
M A Y O R
Julián Castro

ATTEST:

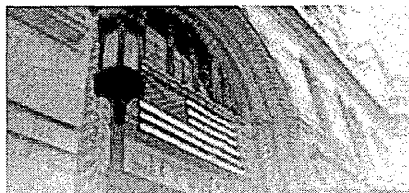


Leticia M. Vacek, City Clerk

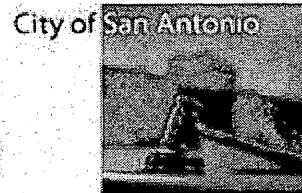
APPROVED AS TO FORM:



Michael D. Bernard, City Attorney



Request for
**COUNCIL
ACTION**



Agenda Voting Results - 18

Name:	18						
Date:	02/04/2010						
Time:	02:46:58 PM						
Vote Type:	Motion to Approve						
Description:	An Ordinance authorizing Safe Passing requirements for vulnerable road users. [Richard Varn, Chief Information Officer; Laurence Doxsey, Director, Office of Environmental Policy]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Mary Alice P. Cisneros	District 1		x				
Ivy R. Taylor	District 2		x				
Jennifer V. Ramos	District 3		x				
Philip A. Cortez	District 4		x				
David Medina Jr.	District 5	x					
Ray Lopez	District 6		x			x	
Justin Rodriguez	District 7		x				x
W. Reed Williams	District 8	x					
Elisa Chan	District 9		x				
John G. Clamp	District 10				x		

Safe Passing of Vulnerable Road Users



Agenda Item #18

February 4, 2010

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Summary

- The Safe Passing ordinance sets a requirement of safe passing by motor vehicles for vulnerable road users. It establishes a duty of due care and the requirement of a motor vehicle operator not to interfere with vulnerable users' legal use of the road.
- Safe passing distance is defined as 3' for cars and 6' for commercial or large trucks that only applies when road conditions allow.
- Violation of the ordinance would be punishable as a Class C misdemeanor and a fine not to exceed \$200.00.

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Summary

- A Safe Passing ordinance provides the foundation for an education campaign of tolerance and acceptance for “active” forms of alternative transportation, which furthers the City’s goals of promoting San Antonio as a Bicycle Friendly Community, as well as the enhancement of walkable streets and neighborhoods.

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Background

- “Safe Passing” legislation was passed in the recent State legislative session by unanimous vote in the House and 26-5 in the Senate but was subsequently vetoed by the Governor. Safe Passing Ordinances based on the State version have been passed by Austin and Helotes and are being considered by Corpus Christi, Midland and Cedar Hill, Plano, Houston, Amarillo, El Paso and Benbrook.

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Background

- Bicyclists and pedestrians are allowed to use the roadway by law in Texas, but these users do not have the same physical protection as motorists and are at greater risk of injury or death.
- Approximately 50 cyclists and 400 pedestrians are killed every year in Texas.
- A Safe Passing ordinance provides the foundation for an education campaign of tolerance and acceptance for "active" forms of alternative transportation
- This furthers the City's goals of promoting San Antonio as a Bicycle Friendly Community, as well as the enhancement of walkable streets and neighborhoods.

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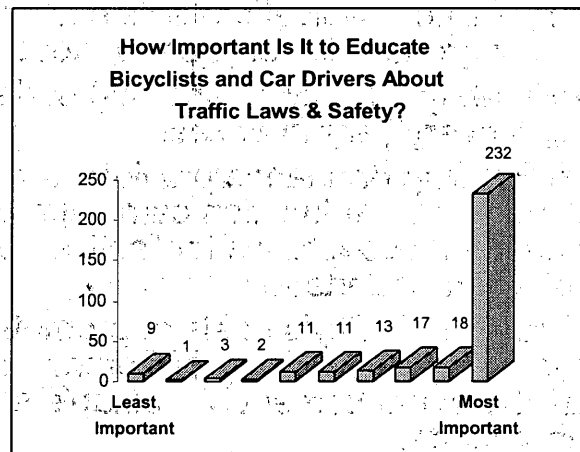
Background

- Over 6900 persons in the State of Texas have signed a petition calling for more explicit "safe passing" legislation, including approximately 835 in the San Antonio area.
- Both the local cycling community and the League of American Bicyclists believe that legislation focusing on both the rights and responsibilities of vulnerable road users is an important component of an overall effort to promote transportation choices on our roadways.

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Background

• Last November, OEP posted an online survey to learn about cyclist preferences and perceptions. Over 559 responded. Here is a representative question:



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Background

- Also last November, OEP hosted a summit on "How to Become a Bicycle Friendly Community" with the League of American Bicyclists.
- Safe Passing legislation was a top recommendation by local business, community, and political leaders to further this goal.



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Background

- The Governance Committee was presented with 3 versions of the ordinance and endorsed passage of the version previously passed by the State Legislature and vetoed by Governor Perry.
- This version is identical to the State version and the one passed in Austin and Helotes and is favored by the Bike Texas Bicycle Coalition as well as AAA, AARP, Texas Motorcycle Rights Association, and Texas Towing and Storage Association among others.

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Background

- A local ordinance that is identical to the State version:
 - 1. Endorses the language and compromises that have already been vetted and adopted at the State level
 - 2. Provides a basis for passage of legislation at the State level during the next legislative session
 - 3. Sets a standard for safe passing by defining safe passing distance
 - 4. Promotes a uniform approach to locally adopted safe passing ordinances

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Background

- An RFP for a \$60,000 safety / awareness media campaign will be issued in February.
- A \$300,000 Transportation Enhancement "grant" has been submitted by OEP to TxDOT for a "Same Road, Same Rules, Same Rights" share the road advertising campaign. Awards to be announced early summer.
- A TxDOT produced safety video has already been posted on TVSA.

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Issue

- This ordinance will aid in avoiding personal injury collisions by providing clearer guidance to motor vehicle operators and "vulnerable road users."
- The ordinance provides a basis for a safety and awareness campaign targeted to all users of the roads.
- As San Antonio seeks to facilitate and encourage walking and bicycling as alternate means of transportation, as a tourist amenity, and as a component of healthy lifestyles, safety on our roadways is crucial.

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Alternatives

- Take no action in passing a local ordinance
- Pass a Safe Passing ordinance developed by City staff that is limited to pedestrians and bicyclists and does not define a safe passing distance
- Pass a modification of the State version that more strongly emphasizes "legal use of the road" by "vulnerable road users" and adjusts the list of "vulnerable road users" to eliminate those that are considered in conflict with existing laws

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Fiscal Impact

- No direct fiscal impact

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Recommendation

- Staff recommends passing a Safe Passing Ordinance. Since the ordinance is primarily a public awareness and safety initiative, any of the versions are viable options. They all advance awareness and respect of pedestrian and bicyclist safety among San Antonio motorists.